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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

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9 ARTURO TORRES OCHOA,

10 Plaintiff,

Case No. 3:12-cv-00285-MMD-VPC

11 v.

12 HERRING, et al.,

13 Defendant.

ORDER

14 Plaintiff Arturo Torres Ochoa, who is in the custody of the Nevada Department of  
15 Corrections, has submitted an application to proceed *in forma pauperis* (dkt. no. 1)  
16 seeking to initiate a civil rights action.

17 Plaintiff has filed multiple meritless, frivolous and/or delusional actions in this  
18 Court. As a result, the Court has found plaintiff subject to the “three strikes” provisions  
19 of 28 U.S.C. § 1915(g) in 3:10-cv-00483-ECR-VPC (docket entry 7). Under Section  
20 1915(g), a prisoner who has brought three or more frivolous or meritless actions may  
21 not proceed *in forma pauperis*; and he instead must pay the full filing fee in advance,  
22 unless he is under imminent danger of serious physical injury.

23 Plaintiff alleges in the present action that he is subject to imminent serious  
24 physical injury because his food allegedly is being poisoned by correctional officers.  
25 This allegation of imminent physical injury, however, itself is delusional or frivolous.  
26 Plaintiff has made the same allegation in a number of actions. See, e.g., 3:12-cv-  
27 00276-HDM-VPC; 3:12-cv-00239-RCJ-VPC. The Court held a hearing on the allegation  
28 in 3:12-cv-00239-RCJ-VPC and confirmed that the allegation indeed is wholly baseless.

1       Further proceedings in this matter would be a waste of limited resources. The  
2 allegation of imminent physical injury is delusional or frivolous; plaintiff does not have  
3 the funds to pay the full filing fee; and he has not paid the filing fee in substantially  
4 similar cases after being afforded an opportunity to do so. See, e.g., 3:12-cv-00239-  
5 RCJ-VPC. Further proceedings herein therefore would be futile. Plaintiff simply has  
6 been filing multiple delusional and/or vexatious cases. The action therefore will be  
7 dismissed without further proceedings.

8 IT IS THEREFORE ORDERED that the application (dkt. no. 1) to proceed *in*  
9 *forma pauperis* is DENIED and that this action shall be DISMISSED without prejudice.

10 The Clerk of Court shall enter final judgment accordingly.

12 DATED THIS 1<sup>st</sup> day of November 2012.

MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE

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